

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL CASE NO. 1:10cv056**

**MYRA B. AUSTIN,**

**Plaintiff,**

**vs.**

**MICHAEL J. ASTRUE,  
COMMISSIONER  
OF SOCIAL SECURITY,**

**Defendant.**

**ORDER OF REMAND**

**THIS MATTER** is before the Court on the parties' Unopposed Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. §405(g) [Doc. 17].

Sentence four of 42 U.S.C. §405(g) provides in pertinent part, "[t]he court shall have the power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The parties have moved for reversal of the decision of the Defendant and remand for further administrative proceedings.

Specifically, the parties ask that the Appeals Council remand the case to an Administrative Law Judge (ALJ) so that the ALJ may reconcile, to the extent necessary, his October 10, 2007, unfavorable decision with his subsequent March 2010 decision finding Plaintiff disabled as of October 11, 2007. On remand, the Appeals Council should direct the ALJ to consider what inferences can be drawn about the period prior to October 11, 2007, from all the evidence, including the evidence in the record for the March 2010 decision. The Appeals Council should direct that the ALJ secure evidence from a medical expert to assist in this review of the record.

Based on the representations of the parties, the Court finds that reversal and remand are appropriate. Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991).

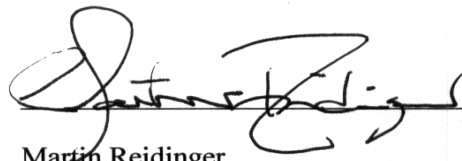
**IT IS, THEREFORE, ORDERED** that the parties' Consent Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. §405(g) [Doc. 17] is hereby **GRANTED**; and

**IT IS FURTHER ORDERED** that the decision of the Commissioner of Social Security is hereby **REVERSED** and the case is **REMANDED**; and

**IT IS FURTHER ORDERED** that upon remand, the Appeals Council remand the case to an Administrative Law Judge, that the Appeals Council instruct the ALJ to reconcile, to the extent necessary, his October 10, 2007,

unfavorable decision with his subsequent March 2010 decision finding Plaintiff disabled as of October 11, 2007. On remand, the Appeals Council will direct the Administrative Law Judge to consider what inferences can be drawn about the period prior to October 11, 2007, from all the evidence, including the evidence in the record for the March 2010 decision. The Appeals Council will direct that the Administrative Law Judge secure evidence from a medical expert to assist in this review of the record. A Judgment of Remand is entered simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

Signed: May 10, 2011

  
Martin Reidinger  
United States District Judge

